

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IRA HOLTZMAN, Individually and as the)	
representative of a class of similarly-)	
situated persons)	
)	
Plaintiff,)	No. 07 C 7279
)	
v.)	Judge Manning
)	Magistrate Judge Cole
MICHAEL P. CAPLICE, d/b/a M. P.)	
CAPLICE & ASSOCIATES)	
)	
Defendant.)	

**THE UNITED STATES' NOTICE OF ITS POTENTIAL
PARTICIPATION IN THIS MATTER**

Defendant has challenged the constitutionality of the Telephone Consumer Protection Act of 1991 ("TCPA"), 47 U.S.C. § 227, in his motion to dismiss filed January 2, 2008. On January 9, 2008, defendant filed a notice of constitutional challenge, and the United States is aware that the Court has granted plaintiff until February 7, 2008, to oppose defendant's motion and has granted defendant until February 28, 2008, to reply.

The United States requests that it be afforded the opportunity to decide whether to intervene in this action, pursuant to 28 U.S.C. § 2403, and, if the United States does seek to intervene, the opportunity to file a brief in opposition to Defendant's motion. That brief would address the constitutionality of the TCPA and statutory issues. The final decision on whether the United States may intervene in this action is made by the Solicitor General. See 28 C.F.R. § 0.21 ("The Solicitor General may in consultation with each agency or official concerned, authorize intervention by the Government in cases involving the constitutionality of acts of Congress."). The process of obtaining approval to intervene generally takes approximately three

weeks. Accordingly, the United States expects to be able to notify the Court by February 25, 2008, whether it intends to intervene in this action. If the United States should decide not to intervene, it will notify the Court promptly.

If the United States should decide to intervene, it respectfully requests that the Court grant the United States until March 7, 2008, to file a brief in opposition to the defendant's motion to dismiss for the limited purpose of addressing the constitutionality of the TCPA and the specific statutory issues raised in defendant's motion.

Dated: January 31, 2008

Respectfully submitted,

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s/ Linda A. Wawzenski
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CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following document:

THE UNITED STATES' NOTICE OF ITS POTENTIAL PARTICIPATION

was served on August 13, 2007, in accordance with FED. R. CIV. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

s/ Linda A. Wawzenski

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